

## NUCLEAR REGULATORY COMMISSION

### Revision of the NRC Enforcement Policy

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy statement.

**SUMMARY:** As a result of an assessment of the Nuclear Regulatory Commission's (NRC) enforcement program, the NRC has revised its General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy or Policy). By a separate action published today in the **Federal Register**, the Commission is removing the Enforcement Policy from the Code of Federal Regulations.

**DATES:** This action is effective on June 30, 1995, while comments are being received. Submit comments on or before August 14, 1995. Additionally, the Commission intends to provide an opportunity for public comments after this revised Enforcement Policy has been in effect for about 18 months.

**ADDRESSES:** Send written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415-2741.

**SUPPLEMENTARY INFORMATION:** On May 13, 1994, the NRC's Executive Director for Operations established a review team to assess the NRC enforcement program. In its report (NUREG-1525,<sup>1</sup> "Assessment of the NRC Enforcement Program," April 5, 1995), the review team concluded that the existing NRC enforcement program, as implemented, is appropriately directed toward supporting the agency's overall safety mission. This conclusion is reflected in several aspects of the program:

- The Policy recognizes that violations have differing degrees of safety significance.

As reflected in the severity levels, safety significance includes actual safety consequence, potential safety consequence, and regulatory significance. The use of graduated sanctions from Notices of Violation to orders further reflects the varying seriousness of noncompliances.

- The enforcement conference is an important step in achieving a mutual understanding of facts and issues before making significant enforcement decisions. Although these conferences take time and effort for both the NRC and licensees, they generally contribute to better decision-making.
- Enforcement actions deliver regulatory messages properly focused on safety. These messages emphasize the need for licensees to identify and correct violations, to address the root causes, and to be responsive to initial opportunities to identify and prevent violations.
- The use of discretion and judgment throughout the deliberative process recognizes that enforcement of NRC requirements does not lend itself to mechanistic treatment.

However, the Review Team found that the existing enforcement program at times provided mixed regulatory messages to licensees, and room for improvement existed in the Enforcement Policy. The review suggested that the program's focus should be clarified to:

- Emphasize the importance of identifying problems before events occur, and of taking prompt, comprehensive corrective action when problems are identified;
- Direct agency attention at licensees with multiple enforcement actions in a relatively short period; and
- Focus on current performance of licensees.

In addition, the review team found that the process for assessing civil penalties could be simplified to improve the predictability of decision-making and obtain better consistency between regions.

As a result of its review, the review team made several recommendations to revise the NRC Enforcement Policy to produce an enforcement program with clearer regulatory focus and more predictability. The Commission is issuing this policy statement after considering those recommendations and the bases for them in NUREG-1525.

The more significant changes to the current Enforcement Policy are described below:

#### I. Introduction and Purpose

This section has been modified to emphasize that the purpose and objectives of the enforcement program are focused on using enforcement actions:

- (1) As a deterrent to emphasize the importance of compliance with requirements; and

- (2) To encourage prompt identification and prompt, comprehensive correction of violations.

#### IV. Severity of Violations

Severity Level V violations have been eliminated. The examples at that level have been withdrawn from the supplements. Formal enforcement actions will now only be taken for violations categorized at Severity Level I to IV to better focus the inspection and enforcement process on safety. To the extent that minor violations are described in an inspection report, they will be labeled as Non-Cited Violations (NCVs). When a licensee does not take corrective action or repeatedly or willfully commits a minor violation such that a formal response would be needed, the violation should be categorized at least at a Severity Level IV.

The NRC staff will be reviewing the severity level examples in the supplements over the next 6 months. The purpose of this review is to ensure the examples are appropriately focused on safety significance, including consideration of actual safety consequence, potential safety consequence, and regulatory significance.

#### V. Predecisional Enforcement Conferences

Enforcement conferences are being renamed "predecisional enforcement conferences." These conferences should be held for the purpose of obtaining information to assist NRC in making enforcement decisions when the agency reasonably expects that escalated enforcement actions will result. They should also normally be held if requested by a licensee. In addition they should normally be held before issuing an order or a civil penalty to an unlicensed individual.

In light of the changes to the Enforcement Policy, the Commission has decided to continue a trial program of conducting approximately 25 percent of eligible conferences open to public observation pending further evaluation. (See 57 FR 30762; July 10, 1992, and 59 FR 36796; July 19, 1994). The intent of open conferences is not to maximize public attendance, but is rather for determining whether providing the public with an opportunity to observe the regulatory process is compatible with the NRC's ability to exercise its regulatory and safety responsibilities. The provisions of the trial program have been incorporated into the Enforcement Policy.

<sup>1</sup> Copies of NUREG-1525 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402-9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555-0001.